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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Mamoru Chiku

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7590

06/11/2009

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ALEXANDRIA, VA 22314

EXAMINER

ANYIKIRE, CHIKAODILI E

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/749,512	Applicant(s) CHIKU ET AL.	
	Examiner CHIKAODILI E. ANYIKIRE	Art Unit 2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This application is responsive to application number (10749512) filed on January 02, 2004. Claims 1-4 and 6-10 are pending and have been examined.

Response to Arguments

2. Applicant's arguments filed March 9, 2009 have been fully considered but they are not persuasive.

The applicant argues that Tauchi does not teach "recording mode-related section" (page 3 lines 8-18). The examiner disagrees. The claim calls for a recording mode-related section. The magnetic tape is related to the storing of either the DV or MPEG format data (Fig 12 element 21, and 31-34; paragraph [0102], [0104], and [0117]).

The applicant argues that Tauchi does not teach that the control of the switch by the controller is based on a selecting action equivalent to the selecting by the recording-mode-related section (page 3 lines 26-28). The examiner disagrees. The prior art has media such as magnetic disk is connected to the controller which relates to the recording mode-related section (Fig 12 element 21 and 31-34; paragraph [0102], [0104], and [0117]).

The applicant argues that Hirasawa does not teach "the dummy data in the generated isochronous packet is of DV format or the MPEG format" (page 4 lines 19-28). The examiner disagrees. Tauchi creates a MPEG and DV format, but Hirasawa creates an obvious modification to the invention Tauchi applying a generated fixed pattern to the selected MPEG or DV format from Tauchi.

The applicant argues that Hirasawa does not teach “the second controller” (page 5 lines 24-25). The applicant disagrees. The purpose is the obviousness of a fixed-generating unit. Tauchi adequately describes choosing between a MPEG and DV format with Hirasawa teaching the generation of a fixed pattern format for the selected format.

The examiner has not been persuaded by the arguments and maintains the position that Tauchi in view of Hirasawa discloses components of the present invention.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 1-4 and 6-10 rejected under 35 U.S.C. 103(a) as being unpatentable over Tauchi et al (US 2001/0036357) in view of Hirasawa (US 2001/0046231).

As per **claim 1**, Tauchi discloses an AV data outputting apparatus comprising:

- a DV encoder (Fig 12 element 62) for encoding original data into DV-format AV data in a DV encoding procedure (paragraph [0101]-[0102]);
- an MPEG encoder (Fig 2 element 61) for encoding original data into MPEG-format AV data in an MPEG encoding procedure (paragraphs [0101]-[0102]);
- a recording-mode related section for selecting an AV data recording mode of operation from a DV-format and an MPEG-format mode (Fig 12 element 21; paragraph [0102] and [0104]);
- first selecting (Fig 12 element 63) means for selecting one from the DV-format AV data and the MPEG-format AV data (paragraph [0102]);
- a first controller for controlling the first selecting means to select either the DV-format AV data or the MPEG-format AV data based on the selecting by the recording-mode-related section (Fig 12 element 13; paragraph [0102]);
- output data type designating (Fig 13 element 81) means for designating a type of encoding about the AV data outputted by the outputting means among different types corresponding to the DV and MPEG encoding procedures respectively (paragraphs [0109] and [0110]);
- deciding means (Fig 13 element 81) for deciding whether or not the encoding procedure related to the AV data selected by the first selecting means corresponds to the encoding type designated by the output data type designating means (paragraphs [0109] and [0110]).

However, Tauchi et al does not explicitly teach fixed-pattern data generating means for generating AV data including either DV dummy data or MPEG dummy data, the DV dummy data corresponding to the DV encoding procedure, the MPEG dummy data corresponding to the MPEG encoding procedure;

second selecting means for selecting one from the AV data selected by the first selecting means and the AV data generated by the fixed-pattern data generating means;

outputting means for outputting the AV data selected by the second selecting means;

a second controller for controlling the fixed-pattern data generating means to decide which of the DV dummy data and the MPEG dummy data the AV data generated by the fixed-pattern data generating means should include based on the encoding type selected by the output data type designating means; and

a third controller for controlling the second selecting means to select the AV data selected by the first selecting means when the deciding means decides that the encoding procedure related to the AV data selected by the first selecting means corresponds to the encoding type designated by the output data type designating means, and

controlling the second selecting means to select the AV data generated by the fixed-pattern data generating means and including one of the DV dummy data and the MPEG dummy data which corresponds to the encoding type designated by the output data type designating means when the deciding means decides that the encoding

procedure related to the AV data selected by the first selecting means does not correspond to the encoding type designated by the output data type designating means.

In the same field of endeavor, Hirasawa teaches fixed-pattern data generating (Fig 2 element 203) means for generating AV data including either DV dummy data or MPEG dummy data, the DV dummy data corresponding to the DV encoding procedure, the MPEG dummy data corresponding to the MPEG encoding procedure (paragraph [0033] lines 13-17);

second selecting (Fig 2 element 204) means for selecting one from the AV data selected by the first selecting means and the AV data generated by the fixed-pattern data generating means (paragraph [0033] lines 17-20);

outputting means for outputting the AV data selected by the second selecting means (Fig 2 element 204; paragraph [0033] lines 17-20);

a second controller (Fig 2 element 205) for controlling the fixed-pattern data generating (Fig 2 element 203) means to decide which of the DV dummy data and the MPEG dummy data the AV data generated by the fixed-pattern data generating means should include based on the encoding type selected by the output data type designating means (paragraph [0033] lines 20-21); and

a third controller (Fig 2 element 205) for controlling the second selecting means to select the AV data selected by the first selecting means when the deciding means decides that the encoding procedure related to the AV data selected by the first selecting means corresponds to the encoding type designated by the output data type designating means (paragraph [0033] and [0036]), and

controlling the second selecting means to select the AV data generated by the fixed-pattern data generating means and including one of the DV dummy data and the MPEG dummy data which corresponds to the encoding type designated by the output data type designating means when the deciding means decides that the encoding procedure related to the AV data selected by the first selecting means does not correspond to the encoding type designated by the output data type designating means (paragraph [0033] and [0036]).

Therefore, it would have been obvious for one having skill in the art at the time of the invention to modify the invention of Tauchi et al in view of Hirasawa. Hirasawa applies the IEEE 1394-1995 standard which advantageous to communication networks and allows for high-performance serial bus activity (paragraph [0005]).

As per **claim 2**, Tauchi et al disclose an AV data outputting apparatus as recited in claim 1, further comprising:

wherein the DV encoder operates for encoding the original data outputted by the camera device in the DV encoding procedure to generate the DV-format AV data (Fig 12, element 62; paragraph [0101]-[0102]); and

wherein the MPEG encoder operates for encoding the original data outputted by the camera device in the MPEG encoding procedure to generate the MPEG-format AV data (Fig 12 element 61; paragraph [0101]-[0102]).

However, Tauchi et al does not explicitly teach a camera device for outputting the original data.

In the same field of endeavor, Hirasawa teach a camera device for outputting the original data (Fig 1, element 111; paragraph [0029] lines 1-3).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention was made to modify the invention of Tauchi et al in view of the invention of Hirasawa. It is obvious to receive an video image through a camera, which the prior art incorporates.

As per **claim 3**, Tauchi et al discloses an AV data outputting apparatus as recited in claim 2, further comprising

a recording medium (Fig 12 element 21), and recording means for recording the DV-format and MPEG-format AV data generated by the DV encoder (Fig 12 element 62) and the MPEG encoder (Fig 12 element 61) on the recording medium (paragraphs [0102] and [0104]).

As per **claim 4**, Tauchi et al disclose an AV data outputting apparatus as recited in claim 1, further comprising:

a recording medium (Fig 12 element 21; paragraph [0104]);

reproducing means for reproducing a signal from the recording medium (Fig 4; Col 17 Ln 24-50 and Col 24 Ln 5-51);

a first processor for generating the DV-format AV data from the signal reproduced by the reproducing means, and feeding the DV-format AV data to the first selecting means (Fig 12 element 62; paragraph [0102]);

a second processor for generating the MPEG-format AV data from the signal reproduced by the reproducing means, and feeding the second AV data to the first selecting means (Fig 12 element 61; paragraph [0102]);

second deciding means for deciding whether the signal reproduced by the reproducing means corresponds to the DV encoding procedure or the MPEG encoding procedure (paragraphs [0109] and [0110]); and

a fourth controller for controlling the first selecting means to select the DV-format AV data when the second deciding means decides that the signal reproduced by the reproducing means corresponds to the DV encoding procedure, and controlling the first selecting means to select the MPEG-format AV data when the second deciding means decides that the signal reproduced by the reproducing means corresponds to the MPEG encoding procedure (paragraph [0102]).

As per **claim 6**, Tauchi et al discloses an AV data outputting apparatus as recited in claim 1.

However, Tauchi et al does not explicitly teach wherein the outputting means comprises means for outputting the AV data selected by the second selecting means according to an isochronous transmission procedure prescribed by the IEEE1394 -1995 standards.

In the same field of endeavor, Hirasawa teaches wherein the outputting means comprises means for outputting the AV data selected by the second selecting means according to an isochronous transmission procedure prescribed by the IEEE1394 -1995 standards (Fig 2 element 204; paragraph [0033] lines 17-21).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention was made to modify the invention of Tauchi in view of the invention of Hirasawa. It is advantageous to use IEEE 1394-1995 because it is a well-known standard used in the field of endeavor (paragraph [0027]).

Regarding **claim 7**, arguments analogous to those presented for claim 1 are applicable for claim 7.

Regarding **claim 8**, arguments analogous to those presented for claim 6 are applicable for claim 8.

Regarding **claim 9**, arguments analogous to those presented for claims 1 and 8 are applicable for claim 9.

Regarding **claim 10**, arguments analogous to those presented for claim 4 are applicable for claim 10.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHIKAODILI E. ANYIKIRE whose telephone number is (571)270-1445. The examiner can normally be reached on Monday to Friday, 7:30 am to 5 pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha D. Banks-Harold can be reached on (571) 272 - 7905. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2621

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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